

MAILED

JUN 2 1998

**DIRECTOR'S OFFICE
GROUP 1800**



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

RJH
Paper Number 37

In re Application of:
Michael M. Harpold et al
Serial No. 07/938,154
Filed: November 30, 1992
For: HUMAN NEURONAL NICOTINIC
ACETYLCHOLINE RECEPTOR
COMPOSITIONS AND METHODS
EMPLOYING SAME

DECISION ON PETITION

This is a decision on the alternative petition, filed April 2, 1997, to withdraw the holding of abandonment or revive an unintentionally abandoned application under 37 CFR 1.137(b).

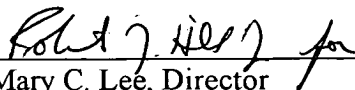
On June 26, 1997, a final Office action was mailed to applicants. On March 25, 1998, a Notice of Abandonment was mailed to applicants which indicated that the application was abandoned in view of applicants' failure to respond to the June 26, 1997 Office action. On April 2, 1998, the present petition was filed.

Petitioner asserted that on December 30, 1997, applicants did respond to the final Office action in the form of a petition for a three month extension of time, a notice of appeal, a proposed amendment after final, and the appropriate fees. The petition was accompanied by copies of the papers, all of which included certificates of mailing dated December 26, 1997, as well as a copy of the post card receipt indicating that the papers were actually received by the Office on December 30, 1997.

From this it is clear that applicants did properly and timely respond to the June 26, 1997 Office Action and, accordingly, the petition to withdraw the holding of abandonment is hereby GRANTED. The application has been returned to pending status and forwarded to the examiner for appropriate action relative to the proposed amendment after final rejection. The period for filing the appeal brief is set to expire two (2) months from the date of this decision.

PETITION GRANTED.

Note, the portion of the petition relating to 37 CFR 1.137(b) is moot in view of the granting of the petition to withdraw the holding of abandonment.


Mary C. Lee, Director
Technology Center 1600

Stephanie L. Seidman
Brown Martin Haller & McClain
1660 Union Street
San Diego, CA 92101-2926